IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4043 OF 2003

Sayyed Yusuf Sayyed
Nuruddin Kadri ..Petitioner

versus

Sau. Saida A. Rahiman
Mujawar & Ors. ..Respondents

Ms. Gauri Godse for the Petitioner.

CORAM : D. G. DESHPANDE, J.

DATE : 17TH JANUARY, 2007.

P.C. :

1. Heard Advocate for the Petitioner. Notice was sent to the Respondents that the matter will be finally disposed of at the admission stage. Nobody is present for the Respondents, even though served.

2. Petitioner is the original defendant. Earlier in the suit filed, the matter proceeded exparte against him. Then he applied for setting aside that order. It was allowed subject to costs of Rs.300/-. The petitioner filed written statement but did not pay the costs. However, the matter

proceeded on the assumption that the cost is paid and the petitioner has right to take part in the proceedings and ultimately at the stage of evidence, it was revealed that the petitioner has not paid the cost. He again applied for permission to deposit costs. That application was rejected by order dated 19.4.2003 and hence this petition.

3. Looking to the facts and circumstances, the petition is required to be allowed. However, the cost amount is required to be enhanced. In the result, Petition is allowed. Impugned Order is set aside on condition that the petitioner appears before the trial court on 5th February, 2007, and pays to the plaintiffs or deposits in the trial court a sum of Rs.1,000/- (Rupees One Thousand). The trial court thereafter will permit him to take part in the proceedings. It is clarified that if the costs is not paid to the plaintiffs or deposited before the trial court on or before 5.2.2007, the petitioner will loose his right to contest the matter in the trial court.

(D.G. DESHPANDE, J.)